



2007 White Paper Recommendation	Recommendation Addressed?
<u>Administrative changes</u>	
<p>1. Administrative Office of the Courts (AOC) and the Department of Licensing (DOL) should work together to verify the completeness of the DOL Firearms Database and fill any gaps in records held by DOL. DOL should consider additional cross-checks of records held by the Department of Social and Health Services (DSHS) under disclosures allowed for program evaluation. disclosures allowed for program evaluation.</p>	<p>A 2009 change to Washington law requires the direct reporting of mental health records by AOC to the National Instant Criminal Background Check System (NICS). This addressed the reasons for this recommendation. Thus there is no longer a need for validation against DSHS records.</p>
<p>2. AOC should develop one standardized notice of ineligibility to possess firearm form that can be used for all mental health cases. The pattern form should be modeled on the domestic violence form and have detailed fields that will assist DOL to enter identifying information. Necessary changes to court rules should also be made to require the use of the form by court clerks.</p>	<p>As a result of a law adopted in 2009, a pattern form for notice of ineligibility to possess in mental health cases is not necessary. The data is now entered by trial court clerks through a secure AOC website. Only one notification per cause number is required if multiple commitment orders are ordered. See RCW 9.41.047(1)(b). Pattern forms have been developed for proof of surrender and declaration of non-surrender in other types of cases. See RCW 9.41.802, .804.</p>
<p>3. Education and training should be provided to court clerks on using a pattern form and timely forwarding it to the DOL for inclusion in its Firearms Database.</p>	<p>Clerks have been trained to use the “InsideCourts” web application.</p>
<p>4. To promote public safety, law enforcement, the Department of Licensing, and AOC (if necessary) should work together to achieve better electronic access by law enforcement to records of civil commitment and other disqualifying mental health interventions.</p>	<p>The need for statutory changes and development of electronic solutions are discussed in the 2013 DOL Report, “Statewide Consolidation of Involuntary Commitment information.”</p>

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<p>5. The DSHS Mental Health Division should distribute guidance to public mental health entities to educate them about permissible disclosures to law enforcement when contacted for firearms background checks.</p>	<p>On December 28, 2007, DSHS' Mental Health Division wrote to all Regional Support Networks and mental health agencies to encourage cooperation with law enforcement inquiries about firearms eligibility and prior civil commitments. RSNs (now Behavioral Health Organizations)) and behavioral health providers have also been advised as to their responsibility to provide information to law enforcement under RCW 70.02.230.</p>
<p>6. Courts, law enforcement and mental health officials should develop a firearm surrender and forfeiture program for mental health cases that involves court scrutiny of less restrictive placements, home visits, and database checks.</p>	<p>Recent legislation has focused on forfeiture and surrender following entry of protection orders, and notification of family members if confiscated firearms are returned. See ESHB 1840 (2014,) codified at RCW 9.41.800, and SSB 5381 (2015), codified at RCW 9.41.340 and .345. As discussed in the 2016 White Paper, more work is needed to implement court orders of surrender in all types of cases.</p>
<p>7. In the near-term, DSHS should submit current data to NICS on a more frequent basis than once a month. If possible, these submissions should be made through electronic file transfer. This practice will enhance public safety by making sure that a record of involuntary psychiatric hospitalization is entered into NICS promptly and prevent the person from purchasing a firearm immediately upon release.</p>	<p>Timely electronic transfer of information to NICS was accomplished through passage and implementation of HB1498 in 2009.</p>
<p>8. In the near-term, DSHS should consider a contract amendment to require Regional Support Networks to report data on local detentions more timely than 60 days from the date of service.</p>	<p>This change is not necessary for purposes of NICS because DSHS no longer reports records to NICS. After the passage of SB 5282 in 2013, Regional Support Networks (now Behavioral Health Organizations) began sending commitment data to DSHS within 24 hours for use in state background checks on pistol purchases and CPL applications. Codified at RCW 71.05.740.</p>

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9. Policy makers and state agencies should consider the development of an instant background check service that can be used at gun shows.

Accomplished through passage and implementation of Initiative 594 (2014), although checks of state records are not instant.

10. Local law enforcement should consider increased education and enforcement of requirements that pawn shops request background checks on applicants who attempt to purchase firearms.

Federal and state requirements for firearms dealers also apply to pawnbrokers who sell firearms. See 18 U.S.C. § 921(a)(11)-(12) (definitions of “dealer” and “pawnbroker”). The Federal Bureau of Alcohol, Tobacco and Firearms regulates pawnbrokers under “Type 2” federal firearms licenses. Pawnbrokers must also record information about pawned firearms. See RCW 19.60.020(1)(e).

Legislative Changes

1. Washington’s firearm statute should be amended to prohibit individuals who have been involuntarily committed for 14 days from possessing a firearm. This would align Washington law with federal law.

Accomplished through passage of HB 1498 (2009) and codified at RCW 9.41.040(2)(a)(iii).

2. Washington’s firearm statute should be amended to prohibit individuals who participate in mental health court proceedings from possessing a firearm. While such a prohibition may discourage some persons from participating, those persons should not be considered candidates for participation if they are unwilling to forego their firearm rights.

Not accomplished. This could occur, however, through court action in an individual case. See RCW 9.41.800(5) (giving courts discretion to order a party to surrender a firearm when “any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual”).

3. A timeframe should be established in statute for sending the ineligibility notice from committing courts to DOL.

Accomplished through passage of HB 1498 (2009). The timeframe is three judicial days. RCW 9.41.047(1)(b).

4. Washington’s firearm statute should be amended to require law enforcement to notify dealers when pistol transfers are approved. This change in law would support best practice and relieve ambiguity in cases of silent or “default approvals.”

The issue of default approvals in pistol transfers is better addressed since Initiative 594 in 2015. The five day period to complete background checks was extended to 10 business days. Dealers also have discretion to hold the transfer until all background checks are complete. RCW 9.41.092. Washington State Patrol trains local law enforcement to notify dealers upon approval of the pistol application. Finally, in cases of a pistol purchase with a concealed pistol license, NICS responds to the dealer within three days.

Legislative Changes

5. In the long-term, policy makers should consider a centralized firearms background check system where firearms dealers contact one state agency which has access to all necessary records to perform a state background check. Dealers could remain responsible for conducting a federal NICS check, or that could become a state responsibility. This change would lead to greater efficiency, but would require significant statutory changes and fiscal appropriation to improve information systems.

Discussed in the 2013 DOL report, but not addressed.

6. Policy makers should consider a technical correction that provides specific legislative authority for Washington State submissions to NICS.

Accomplished through passage of HB 1498 (2009) codified at RCW 9.41.047(1)(b).

7. In the long-term, Washington State Courts should develop the capability to submit records directly to NICS. Court records are the most accurate reflection of whether a person has been civilly committed, found incompetent to stand trial, or found not guilty by reason of insanity. Automated transmittal by courts to NICS will ensure that all records of prohibited persons are sent in a timely manner. If courts believe state legislative authority is needed, statutory changes should be pursued.

Accomplished through passage of HB 1498 (2009) codified at RCW 9.41.047(1)(b).